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 6 BAY AREA RAPID TRANSIT DISTRICT  
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11 UNITED STATES DISTRICT COURT  
 12 NORTHERN DISTRICT OF CALIFORNIA  
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11 JEROME L. GRIMES,	)	Case No. C 07 80138-MISC. CW
12 Plaintiff,	)	DEFENDANT BAY AREA RAPID
13 v.	)	TRANSIT DISTRICT'S NOTICE
14 (BART) BAY AREA RAPID TRANSIT,	)	OF MOTION AND MOTION TO
15 (Transportation) (Non-Police Agency); VIVENCIO	)	DISMISS ACTION BASED ON
16 GONZAGA (AKA: Vincent Flores) (BART Janitor	)	FAILURE TO STATE A CLAIM
17 07/09/03 Civilian Employee); KEN "KENNETH"	)	UNDER FRCP RULE 12(b)(6); OR
18 DAM (Community Service Assistant, for, BART)	)	IN THE ALTERNATIVE FOR
19 (07/09/03 Civilian Employee); BRUCE TURNER	)	ORDER REQUIRING PLAINTIFF
20 (BART RUN # 225, 07/09/03, 1819 hrs. (1806 hrs.),	)	TO PROVIDE A MORE DEFINITE
21 (07/09/03 Civilian Employee) (Terrorist Benjamin	)	STATEMENT (FRCP RULE 12(e);
22 Arnold Turner's Foster Relative/Co-Conspirator	)	AND TO STRIKE PUNITIVE
23 07/12/86 Co-Child Abduction,	)	DAMAGES UNDER FRCP RULE
24 Defendants.	)	12(f))
25	)	Date: August 2, 2007
26	)	Time: 2:00 p.m.
27	)	CtRm 2, 4 <sup>th</sup> Floor
28	)	

TO PLAINTIFF AND HIS ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on August 2, 2007, at 2:00 p.m., or as soon thereafter as the matter may be heard in the above-entitled court, in Court room 2, 4<sup>th</sup> Floor, located at 1301 Clay Street, Oakland, California, defendant Bay Area Rapid Transit District ("BARTD") will move this court to dismiss the action with prejudice pursuant to FRCP 12(b)(6) because plaintiff's complaint fails to state a claim upon which relief can be granted, on the grounds that: (1) plaintiff's entire complaint fails to meet the applicable statute of limitations; (2) plaintiff's claim is so vague and ambiguous as to state no cognizable claims against BARTD; and (3) plaintiff's

1 entire complaint is barred by the principles of res judicata and /or collateral estoppel.

2 In the alternative, defendant will move the court to order that plaintiff provide a more definite statement  
3 pursuant to FRCP Rule 12(e) on the grounds that the complaint is so vague or ambiguous that BARTD cannot  
4 be reasonably required to frame a responsive pleading. By this motion BARTD also requests that any and all  
5 references to punitive damages in plaintiff's complaint be stricken as BARTD on the ground that a public entity  
6 is immune from any and all of plaintiff's claims.

7 This motion will be based on this Notice of Motion, the Memorandum of Points and Authorities filed  
8 herewith, the pleadings and papers filed herein, and the matters of public record of which judicial notice is  
9 requested.

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11 Dated: June 18, 2007.

12 LOW, BALL & LYNCH  
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14 By \_\_\_\_\_ /s/ Dale L. Allen, Jr.  
15 DALE L. ALLEN, JR.  
16 JOSHUA M. BRYAN  
17 Attorneys for Defendant  
18 BAY AREA RAPID TRANSIT DISTRICT  
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